

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2003-0422-011-016

vs.

Carolita Smith, LPN, Lic. No. 028963
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated May 22, 2003. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Carolita Smith (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On June 4, 2003, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated June 4, 2003, scheduling a hearing for June 18, 2003. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were mailed to respondent by certified first class mail and to respondent's attorney by certified mail. Respondent's attorney received the Notice of Hearing and Statement of Charges on June 9, 2003. Dept. Exh. 1. Respondent's attorney notified the Board in a letter dated June 9, 2003, that he was no longer representing respondent.

Respondent's written Answer to the Statement of Charges was received on June 16, 2003. Resp. Exh. 1

The hearing took place on June 18, 2003, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Transcript, June 18, 2003, p. 2

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. On February 29, 1996, the Louisiana State Board of Practical Nursing (the "Louisiana Board") issued respondent a letter of reprimand and fined respondent \$200.00 for job abandonment on two occasions in 1996. Dept. Exh.1-A3.
2. Respondent was arrested on or about May 19, 1999 in Hahnville, Louisiana for reckless operation of a vehicle, public intimidation (felony) and driving while intoxicated. Respondent failed to disclose this information on her 2000 licensure renewal application in Louisiana. Dept. Exh.1-A7, 1-D3.
3. By letters dated February 11, 2000 and July 24, 2000, respondent was notified by the Louisiana Board that an investigation had commenced concerning her falsification of her 2000 license renewal application. Dept. Exh.1-A7.
4. On respondent's January 29, 2002 application for licensure as a licensed practical nurse in Connecticut, respondent affirmatively indicated prior discipline by a professional licensing or disciplinary body and referred to the 1996 Louisiana Board disciplinary action. However, respondent negatively answered the application's question, "have you ever, in any state . . . been subject to, or do you currently have pending, any complaint, investigation, charge or disciplinary action by any professional licensing or disciplinary body?" Dept. Exh.1-A2-A3.
5. Respondent was issued Connecticut licensed practical nurse license number 028963 on March 18, 2002. Dept. Exh.1-A1.
6. On July 15, 2002, the Louisiana Board issued a formal complaint charging respondent with fraud or deceit in procuring or attempting to procure a license to practice practical nursing. Dept. Exh.1-D3.
7. On respondent's Connecticut licensed practical nurse licensure renewal application dated November 4, 2002, respondent negatively answered the question, "within the last year . . . have you had any disciplinary action taken against you or any such actions pending by another state's licensure/certification authority?" Dept. Exh.1-B.
8. On December 16, 2002, the Louisiana Board issued a second formal complaint against respondent and scheduled a hearing for January 13, 2003. Resp. Exh.1

9. On February 20, 2003, the Louisiana Board issued a decision finding respondent guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing. The Louisiana Board ordered respondent's Louisiana practical nurse license suspended indefinitely with stipulations. Dept. Exh.1-A7-A9.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Carolita Smith held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §§ 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by *Conn. Gen. Stat.* § 4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The General Statutes of Connecticut § 20-99 provides in relevant part:

- (a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17. . . .
- (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: (1) Fraud or material deception in procuring or attempting to procure a license to practice nursing . . .

Based on its findings, the Board concludes that respondent falsified her application for licensed practical nurse licensure in Connecticut and falsified her licensure renewal application by failing to disclose information as to pending disciplinary action in the State of Louisiana. The Board further concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented and that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(1) and 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

That for Paragraphs 2 and 4 of the Statement of Charges, respondent's licensed practical nurse license, number 028963, is revoked effective the date this Memorandum of Decision is signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Carolita Smith, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 5th day of November 2003.

BOARD OF EXAMINERS FOR NURSING

By _____